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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/667,981

09/22/2000

George A. Burnett

2909

1090

7590

01/26/2005

Joseph N Hosteny  
Niro Scavone Haller & Niro  
Suite 4600  
181 West Madison Street  
Chicago, IL 60602

EXAMINER

LEE, BENJAMIN C

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicant(s)

09/667,981

Applicant(s)

BURNETT ET AL.

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/10/04 has been entered.

#### ***Notice***

2. It is hereby noted that the Amendment and Remarks filed 9/10/04 are identical to those already filed on 1/16/04 and already entered on 1/22/04.

#### **New Matter**

3. The amendment filed 9/10/04 (and 1/16/04) is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Amendment to claims 1, 6 and 13 (along with claims 2-5, 7-12 and 14 that depend on those claims) recite that the water-resistant barrier is applied to the housing such that "water entering the housing is prevented from entering the first cavity and affecting the piezoelectric transducer," which is not supported by the specification/disclosure that discloses only that the barrier is applied to the "front face", "grill", or "mating knurled nut" that are all exterior of housing/cavities (see figures and specification) in

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such a way that water would not be able to enter any portion of the housing without affecting the transducer, since water would first have to pass the front face, grill, or mating knurled nut.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See above "New Matter" objection to the specification.

6. The new matter introduced in the claims as indicated above requires cancellation. The following prior art consideration treats the claims without such new matter, i.e. without the amendment portion.

***Claim Rejections - 35 USC § 103***

7. **Claims 1, 6-7, 9-11 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett (US pat. #5,675,312) in view of Leitten et al. (US pat. #5,420,570) as stand in the Office action mailed 8/18/03.

8. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett in view of Leitten et al.

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1) In considering claim 14, Burnett and Leitten et al. made obvious all of the claimed subject matter as in claim 13, including:

--the claimed second cavity (relatively wider portion directly adjacent the piezoelectric transducer in Fig. 2 of Burnett) adjacent the first cavity (interpreted as the relatively narrower portion having the grill aperture and further away from the piezoelectric transducer in Fig. 2 of Burnett), wherein said second cavity further amplifies sounds emitted by the transducer (inherent by its structure and placement to the first cavity and to the transducer).

9. **Claims 2-5, 8 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett in view of Leitten et al. and Lee (US pat. #5,707,757) as stand in the Office action mailed 8/18/03.

***Response to Arguments***

10. Applicant's arguments filed 9/10/04 (and 1/16/04) have been fully considered but they are not persuasive.

1) The amendment introduced new matter that requires cancellation as indicated above.

2) Since Applicant did not provide any evidence to support the allegation that the references were improperly combined, while the previous Office action rejection clearly provided the modifications involved as well as their motivation, Applicant's arguments are not deemed persuasive in overcoming the previous Office action rejection.

3) Regarding Applicant's argument with respect to the amended claims, since the amended claims involve new matter requiring cancellation, Applicant's arguments are not deemed persuasive in overcoming the current Office action rejection.

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***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963.

The examiner can normally be reached on Mon -Fri 11:00Am-7:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin C. Lee  
Primary Examiner  
Art Unit 2632

B.L.